

ORIGINAL

SEALED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

2020 APR 22 PM 2:27

DEPUTY CLERK

UNITED STATES OF AMERICA and  
STATE OF TEXAS, *ex rel.* JOHN  
DELHAGEN,

Plaintiffs,

Civil Action No. 3:19-CV-01955-E

v.

**FILED IN SEALED CASE**

ENDO SEDATION, LLC,  
TEXAS DIGESTIVE DISEASE  
CONSULTANTS, PLLC, and CEDAR  
PARK SURGERY CENTER LLP d/b/a  
HILL COUNTRY SURGERY CENTER,

Defendants.

**THE UNITED STATES OF AMERICA'S DECLINATION NOTICE**

1. The United States of America (United States), pursuant to 31 U.S.C. § 3730(b)(4)(B), on behalf of itself and the State of Texas, respectfully notifies the Court of its election not to intervene in this action.

2. Although the United States is declining to intervene, we respectfully refer the Court to the provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1), which permit a relator to maintain the action in the name of the United States; provided, however, that the "action may be dismissed only if the Court and the Attorney General give written consent to the dismissal and their reasons for consenting." The United States requests that, should either relator or defendants propose that this action be dismissed, settled, or

otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval of such a request.

3. The United States further requests that pursuant to 31 U.S.C. § 3730(c)(3), relator and defendants serve all pleadings filed in this action upon the United States, and that all Orders issued by the Court also be sent to the undersigned government's counsel.

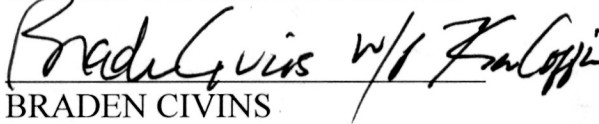
4. The United States reserves its right to order any deposition transcripts and to intervene in this action, for good cause shown, at a later date pursuant to 31 U.S.C. § 3730(c)(3).

5. The United States finally requests that only the Complaint, this Notice, and the Court's accompanying Order be unsealed and served upon defendants. The United States asks that all other materials in this matter (including, but not limited to, any hearing transcripts or applications filed by the United States for an extension of time in which to intervene or for any other reason) remain under seal and not be made public or served on defendants at any time because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

6. A proposed Order accompanies this notice.

Respectfully submitted,

ERIN NEALY COX  
UNITED STATES ATTORNEY

  
BRADEN CIVINS

Assistant United States Attorney  
Texas Bar No. 24080836  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242  
Telephone: 214-659-8600  
Facsimile: 214-659-8807  
Email: [braden.civins@usdoj.gov](mailto:braden.civins@usdoj.gov)

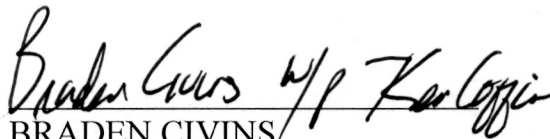
Attorneys for the United States of America and on  
behalf of the States of Texas

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2020, a copy of the foregoing pleading and proposed Order were mailed by first class mail to counsel for relator:

John Bruster Loyd  
JONES, GILLASPIA & LOYD, L.L.P.  
4400 Post Oak Parkway  
Suite 2360  
Houston, TX 77027

Brian H. Mahany  
MAHANY LAW  
8112 W. Bluemound Road  
Suite 101  
Wauwatosa, WI 53213

  
BRADEN CIVINS  
Assistant United States Attorney

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA and STATE  
OF TEXAS, *ex rel.* JOHN DELHAGEN,

Plaintiffs,

v.

ENDO SEDATION, LLC,  
TEXAS DIGESTIVE DISEASE  
CONSULTANTS, PLLC, and CEDAR PARK  
SURGERY CENTER LLP d/b/a HILL  
COUNTRY SURGERY CENTER,

Defendants.

Civil Action No. 3:19-CV-01955-E

FILED IN SEALED CASE

ORDER

Having reviewed the United States of America's Declination Notice, and pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4), **IT IS HEREBY ORDERED** that:

1. The Complaint in the above-referenced action shall be unsealed after the date of this Order and served upon defendants by relator;
2. All other contents of the Court's file in this action shall remain under seal and shall not be made public or served upon defendants pursuant to L.R. 79.4 or otherwise, except for this Order and the United States of America's Declination Notice, which relator shall serve upon defendants only after service of the Complaint;
3. The seal shall be lifted and all papers filed or lodged in this action after the date of this Order shall not be sealed, unless otherwise ordered by the Court;



4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time;

5. All orders of this Court shall be sent to the United States; and

6. Should relator or defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval.

**SO ORDERED.**

Dated this \_\_\_\_ day of April, 2020.

---

HONORABLE ADA BROWN  
UNITED STATES DISTRICT JUDGE